IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1383 OF 2004

Shri Pralhad Dhondiba Raut .. Appellant

Versus

Shri Sopan Bhairu Raut .. Respondent

Mr.A.A.Kumbhakoni with Mr.A.P.Kulkarni for appellant.

CORAM : P.V.KAKADE, J.

DATE : 5TH JULY, 2005.

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by Addl. District Judge, Solapur dated 30.4.2004 dismissing the appeal and confirming the judgment and order passed by Civil Judge,Junior Division, Solapur dated 11.4.2001 decreeing the suit for possession of the encroached property by the defendants.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiff filed the suit for possession of the encroached land from the defendants and past and future mesne profit. It was the case of the plaintiff that he owned the lands bearing Gat Nos.32 and 30 and suit property of 8 R which was part and parcel of the suit land. The defendant contested the suit on various grounds and sought the suit to be dismissed.

. The learned trial judge adjudicated the dispute on merits and came to the conclusion that the plaintiff had proved that portion measuring 8R was the part and parcel of the land Gat No.32. It was further held that the land of 6R is the part and parcel of the suit land Gat No.30 and on the basis of record it was held that the defendant committed encroachment upon 8R in land Gat No.32 and upon 6R in land Gat No.30 respectively and as such the plaintiff was held entitled to recover possession of the encroached part of the impugned property. The appeal was carried to the District Court. The learned Addl. District Judge after hearing both the parties and on the basis of available evidence concluded

that the findings recorded by the court below were legal and proper. It was further held that the defendants' plea for perpetual adverse possession was not established and as such the appeal came to be dismissed. Hence the present appeal.

4. At the out set it may be noted that there is absolutely no substantial question of law involved in this appeal. The concurrent findings recorded by both the courts below have shown that in the course of the trial the Surveyor from DILR Office was appointed and map was drawn vide Exh.64 which clearly showed the encroachment by the defendant over the said land of the plaintiff. The evidence on record also shows that the defendant failed to establish his plea of adverse possession and as such the concurrent findings came to be recorded that the suit deserves to be decreed and was accordingly decreed.

5. In my considered view, both the courts below have appreciated the evidence in proper manner and therefore, no interference is required. In the result the appeal stands dismissed. Consequently Civil Application No.1847 of 2005 also stands dismissed.